

# State of South Dakota

## EIGHTY-SEVENTH SESSION LEGISLATIVE ASSEMBLY, 2012

553T0464

### SENATE BILL NO. 64

Introduced by: Senators Fryslie, Cutler, Gray, and Nelson (Tom) and Representatives Street, Novstrup (David), Solum, and Verchio

1 FOR AN ACT ENTITLED, An Act to revise provisions regulating the perfection of security  
2 interest liens filed on-line.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-3-41 be amended to read as follows:

5 32-3-41. A security interest, mechanic's lien, or similar instrument other than a financing  
6 statement covering a motor vehicle, trailer, or semitrailer, or any vehicle required to be titled  
7 under the provisions of this chapter, if notation of same has been made by the seller, buyer,  
8 owner, holder of the instrument, or an agent of the secretary on the manufacturer's statement of  
9 origin or the manufacturer's certificate of origin, or in the case of the certificate of title, if a  
10 notation of same has been made by the secretary, an agent of the secretary, or a county treasurer  
11 on the face thereof or if notation of same has been made by the seller, buyer, owner, holder of  
12 the instrument, or agent of the secretary on the reverse thereof, ~~shall be~~ is valid against the  
13 creditors of the debtor, whether armed with process or not, and subsequent purchasers and other  
14 lien holders or claimants, but otherwise is not valid against them. A lien is perfected if it has  
15 been noted on the title as provided by law and entered into the electronic title file system.



Section 2. That § 32-3-70 be amended to read as follows:

32-3-70. Notwithstanding any other provision of this title, the department may provide for an electronic certificate of title. If the application for title or the title has a lien noted, no paper title may be issued to the owner of record or the lienholder. A paper title shall be issued under the following circumstances:

(1) The lien has been satisfied and the owner requests a title; or

(2) The owner is relocating to another state and the lienholder authorizes the issuance of a title with the lien noted.

A lien shall be noted or cancelled on-line if an electronic certificate of title exists and the lienholder has access to the electronic title file system pursuant to § 32-3-38.1. A lien noted on-line is considered perfected as if a paper title were issued and a lien noted on it pursuant to § 32-3-41. A lienholder is liable for noting or canceling a lien in error.